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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/868,533	09/21/2001	Stuart Neville Farrow	PG3600USW	3391

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EXAMINER	
MONDESI, ROBERT B	
ART UNIT	PAPER NUMBER
1653	

DATE MAILED: 08/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/868,533	FARROW ET AL.	
	Examiner	Art Unit	
	Robert B. Mondesi	1653	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-36 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) _____ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☒ Claim(s) 1-36 are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-5 and 16 drawn to an isolated polypeptide and a trimer comprising the said isolated polypeptide.

Group II, claim(s) 7-9, drawn to an isolated polynucleotide, a vector comprising the isolated polynucleotide and a host cell comprising the said polynucleotide.

Group III, claim(s) 10, drawn to antibody.

Group IV, claim(s) 11, drawn to a method of identification.

Group V, claim(s) 12, drawn to a compound identified by a method of detection.

Group VI, claim(s) 13, drawn to a method of using a compound identified by a method of identification for use in immunotherapy.

Group VII, claim(s) 14-15, drawn to a method of treatment.

Group VIII, claim(s) 17, drawn to a method of making a protein for the treatment of cancer.

Group IX, claim(s) 18, drawn to a method of treatment of a disorder which is responsive to the modulation of interaction with a protein.

Group X, claim(s) 19-20, drawn to a method of producing a protein comprising expressing the said protein in a host cell.

Group XI, claim(s) 21-26, drawn to a method of identifying a compound that decreases binding between a protein and a B cell receptor.

Group XII, claim(s) 27-28, drawn to a compound identified by a method of identifying a compound that decreases binding between a protein and a B cell receptor.

Group XIII, claim(s) 29-36, drawn to a method of inhibiting activation of NF-kB transcription factor.

The inventions listed as Groups I-XIII do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: Invention of Group I is an isolated polypeptide and a trimer comprising the said isolated polypeptide and is used to make antibodies, the invention of Group II is an isolated polynucleotide that can be used to make nucleic acid probes, the invention of Group III is an antibody that is used in an immune response, the invention of Group IV is a method of identification, the invention of Group V is a compound identified by a method of detection, the invention of Group VI is a method of using a compound identified by a method of identification for use in immunotherapy, the invention of Group VII is a method of treatment, the invention of Group VIII is a method of making a protein for the treatment of cancer, the invention of Group IX is a method of treatment of a disorder which is responsive to the modulation of interaction with a protein, the invention of Group X is a method of producing a protein comprising expressing the said protein in a host cell, the invention of Group XI is a method of identifying a compound that decreases binding between a protein and a B cell receptor, the invention of Group XII a compound identified by a method of identifying a compound that decreases binding between a protein and a B cell receptor, the invention of Group XIII is a method of inhibiting activation of NF-kB transcription factor.

Accordingly, Groups I-XIII are not so linked by the same or a corresponding special technical feature as to form a single inventive concept.

Restriction Requirement Applicable to all Groups

Furthermore, the presence of multiple polypeptide sequences and polynucleotide sequences, each with a different SEQ ID NO: allows for a variety of patentably distinct products. Depending on the sequence of each polypeptide and polynucleotide, the characteristics of the resulting molecule will vary in regards to structure and function. Each one of these polypeptides is capable of eliciting a specific immune response and

can be used to produce a specific antibody; also each one of the mentioned polynucleotides is capable of hybridizing to different probes and is capable of encoding a characteristically different peptide in regards to structure and activity. Therefore these polypeptides and polynucleotides are patentably distinct absent factual evidence to the contrary. Rejoinder of all or a specified subset of the sequences is possible if Applicants provide a single and specific representative subsequence found in all or a specified subset of the sequences for search, and state that all or a specified subset of the sequences are not patentably distinct. Applicants are informed that if their specified sequence is found that all or a specified subset of sequences are obvious over that prior art sequence.

The applicant should be aware that selection of a single SEQ ID NO: represents a response to a restriction requirement of a patentably distinct product, not an election of species.

The examiner has required restriction between product and process claims. Where applicant elects claims directed to the product, and a product claim is subsequently found allowable, withdrawn process claims that depend from or otherwise include all the limitations of the allowable product claim will be rejoined in accordance with the provisions of MPEP § 821.04. **Process claims that depend from or otherwise include all the limitations of the patentable product** will be entered as a matter of right if the amendment is presented prior to final rejection or allowance, whichever is earlier. Amendments submitted after final rejection are governed by 37 CFR 1.116; amendments submitted after allowance are governed by 37 CFR 1.312.

In the event of rejoinder, the requirement for restriction between the product claims and the rejoined process claims will be withdrawn, and the rejoined process claims will be fully examined for patentability in accordance with 37 CFR 1.104. Thus, to be allowable, the rejoined claims must meet all criteria for patentability including the requirements of 35 U.S.C. 101, 102, 103, and 112. Until an elected product claim is found allowable, an otherwise proper restriction requirement between product claims and process claims may be maintained. Withdrawn process claims that are not commensurate in scope with an allowed product claim will not be rejoined. See "Guidance on Treatment of Product and Process Claims in light of *In re Ochiai, In re Brouwer* and 35 U.S.C. § 103(b)," 1184 O.G. 86 (March 26, 1996). Additionally, in order to retain the right to rejoinder in accordance with the above policy, Applicant is advised that the process claims should be amended during prosecution either to maintain dependency on the product claims or to otherwise include the limitations of the product claims. **Failure to do so may result in a loss of the right to rejoinder.**

Further, note that the prohibition against double patenting rejections of 35 U.S.C. 121 does not apply where the restriction requirement is withdrawn by the examiner before the patent issues. See MPEP § 804.01.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert B. Mondesi whose telephone number is 571-272-0956. The examiner can normally be reached on 9am-5pm, Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jon Weber can be reached on 571-272-0925. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Robert B. Mondesi

07-09-06